

**BEFORE THE  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

**In the Matter of:**

**WHITE FARMS TRUCKING, INC.,**

**Respondent.**

**Docket No. FMCSA-2009-0083<sup>1</sup>  
(Midwestern Service Center)**

**ORDER APPOINTING ADMINISTRATIVE LAW JUDGE**

**1. Background**

On December 23, 2008, the Nebraska Division Administrator, Federal Motor Carrier Safety Administration (FMCSA), issued a Notice of Claim to Respondent, White Farms Trucking, Inc., proposing a civil penalty of \$18,620 for 21 alleged violations of the Federal Motor Carrier Safety Regulations (FMCSRs). Specifically, the Notice of Claim, which was based upon an October 27, 2008, compliance review (CR), charged Respondent with: (a) one violation of 49 CFR 382.215, with a proposed civil penalty of \$4,220, for using a driver known to have tested positive for a controlled substance; and (b) 20 violations of 49 CFR 395.8(e), with a proposed civil penalty of \$720 per count, for false reports of records of duty status.<sup>2</sup>

On January 16, 2009, Respondent replied to the Notice of Claim, setting forth its defenses and requesting a formal hearing.<sup>3</sup> On March 20, 2009, Claimant, the Field Administrator for the Midwestern Service Center, FMCSA, consented to Respondent's

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<sup>1</sup> The prior case number of this matter was NE-2008-0111-US0854.

<sup>2</sup> See Exhibit A to Field Administrator's Consent to Respondent's Request for Formal Hearing.

<sup>3</sup> See Exhibit B to Field Administrator's Consent to Respondent's Request for Formal Hearing.

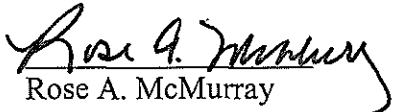
request for a formal hearing.<sup>4</sup> Accordingly, this matter is being forwarded to the U.S.

Department of Transportation's Office of Hearings.

## 2. Appointment of Administrative Law Judge

In accordance with 49 CFR 386.54, an administrative law judge is hereby appointed, to be designated by the Chief Administrative Law Judge of the Department of Transportation, to preside over this matter and render a decision on all issues, including the civil penalty, if any, to be imposed. The proceeding shall be governed by subparts D and E of 49 CFR Part 386 of the revised Rules of Practice and all orders issued by the administrative law judge.

*It Is So Ordered.*



Rose A. McMurray  
Assistant Administrator  
Federal Motor Carrier Safety Administration

4-23-09  
Date

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<sup>4</sup> Claimant, however, asked that the matter be assigned to a hearing officer. Pursuant to 49 CFR 386.2, the term "*Hearing officer*" is defined as "a neutral Agency employee designated by the Assistant Administrator to preside over an informal hearing." (Emphasis supplied.) An administrative law judge is appointed to preside over a formal hearing.

**CERTIFICATE OF SERVICE**

This is to certify that on this 24 day of April, 2009, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

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The Honorable Ronnie A. Yoder  
Chief Administrative Law Judge  
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A handwritten signature in cursive script, reading "Janice Miller", is written over a horizontal line.